



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,931	09/16/2003	John Higgins	03-029-JH	2331

7590

06/22/2005

Melissa Patangia, ESQ.
Lambert and Associates
92 State Street
Boston, MA 02109

EXAMINER

BUI, LUAN KIM

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,931

Applicant(s)

HIGGINS, JOHN

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,8 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,8 and 12-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4 and 8 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Bartell et al. (4,889,236; hereinafter Bartell'236). Bartell'236 discloses a rigid credit card style pill card having the peripheral dimensions of a credit card/wallet pill card (column 1, lines 66-68) comprising a card (10) having a top surface (100, 120) and a bottom surface (130, 400), and the card including at least one sealed cavity (30) located on the top surface at the perimeter edge of the card. As to claims 4 and 8, the sealed cavity of Bartell'236 is inherently capable to contain oral medical tablets or a tube of medicament.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12-17 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Bartell et al. (4,889,236; hereinafter Bartell'236) in view of Mattis et al. (2002/0066690; hereinafter Mattis'690) and Robertson (6,516,950). Bartell'236 discloses the rigid credit card style pill card as above having all the limitations of the claims except for the card comprises a

Art Unit: 3728

thickness thinner or the same thickness as a credit card. Mattis'690 suggests a pill case (10) having the dimensions approximately of a credit card so that the case may be readily transported and carried in a wallet or billfold (page 1, paragraph 0009). Robertson teaches a credit card-sized carrier (10) having a length and width of substantially no greater than a standard credit card and a thickness is substantially no greater than about two or three times of the standard credit card so the carrier may be readily transported in a pocket or wallet. Robertson further teaches the carrier having indicia (72) such as information about the user or instructions relating to the enclosed drug for example aspirin for use of a heart attack. It would have been obvious to one having ordinary skill in the art in view of Mattis'690 and Robertson to modify the card of Bartell'236 so the card having the same thickness as a credit card to facilitate carrying in a wallet since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

As to claims 13-16, Bartell further discloses the card includes writing (20). However, Bartell'236 fails to show the writing is instructions or advertisement. Robertson shows the top surface of the cover (42) comprises the indicia (72) and the indicia include an information and instructions relating to the enclosed pill or the indicia may be information about the user (column 4, lines 51-55). It would have been obvious to one having ordinary skill in the art in view of Robertson to modify the card of Bartell'236 so the top surface includes writing and the writing comprises instructions relating to the enclosed pill or an advertisement to provide more convenience for the user.

Art Unit: 3728

As to claim 17, Bartell'236 further fails to show a cavity resealing mechanism. Robertson shows the card comprising a cavity (94) for holding the pill (96) and a cavity resealing mechanism (100) for multiple uses. It would have been obvious to one having ordinary skill in the art in view of Robertson to modify the card of Bartell'236 so it includes a cavity resealing mechanism for reusing the card.

Response to Arguments

Applicant's arguments filed on 5/12/2005 have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to Bartell'236 or Mattis'690 or Robertson are noted. They are not persuasive for the reasons as set forth above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3728

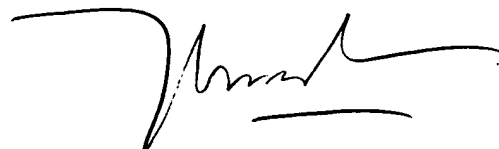
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
June 17, 2005

A handwritten signature in black ink, appearing to read 'Luan K. Bui', with a horizontal line underneath.

Luan K. Bui
Primary Examiner